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General Assembly

Official Records

Fifty-fifth session

99th plenary meeting
Tuesday, 24 April 2001, 10 a.m.
New York

President: Mr. Holkeri ..... (Finland)

The meeting was called to order at 10 a.m.

Agenda item 122 (*continued*)

Scale of assessments for the apportionment of the expenses of the United Nations (A/55/745/Add.7)

The President: In a letter contained in document A/55/745/Add.7, the Secretary-General informs me that, since the issuance of his communications contained in document A/55/745 and addenda 1 to 6, Mauritania and Saint Lucia have made the necessary payments to reduce their arrears below the amount specified in Article 19 of the Charter.

May I take it that the General Assembly duly takes note of the information contained in that document?

It was so decided.

Agenda item 185

Election of the judges of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Letter from the President of the Security Council (A/55/871)

Memorandum by the Secretary-General (A/55/872)

Curricula vitae (A/55/873)

The President: The General Assembly will proceed to the election of two judges of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994.

At the election in 1998 of judges for the three Trial Chambers of the International Criminal Tribunal for Rwanda, nine judges were elected, and their terms of office are to expire on 24 May 2003.

By its resolution 1329 (2000) of 30 November 2000, the Security Council decided to increase the number of judges in the Appeals Chambers of the International Criminal Tribunal for Rwanda and of the International Criminal Tribunal for the Former Yugoslavia. In order that the increase in the number of judges in the Appeals Chamber might be made, the Security Council decided also that two additional judges should be elected as soon as possible as judges of the International Criminal Tribunal for Rwanda and that the judges so elected should serve until the expiry of the terms of office of the judges currently serving on the Tribunal, that is 24 May 2003.

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-178. Corrections will be issued after the end of the session in a consolidated corrigendum.

01-34557 (E)

In connection with the election today of the two judges, I should like to bring the following matters to the attention of the General Assembly.

First, according to article 12, paragraph 2 (c), of the Statute of the International Criminal Tribunal for Rwanda, as amended by Security Council resolution 1329 (2000) of 30 November 2000, the two judges of the International Criminal Tribunal for Rwanda shall be elected by the General Assembly from a list of candidates submitted by the Security Council. At its 4307th meeting, held on 30 March 2001, the Security Council, in accordance with article 12, paragraph 2 (d), of the Statute of the International Criminal Tribunal for Rwanda, established, in its resolution 1347 (2001), a list of five candidates. The list was formally conveyed to the President of the General Assembly by a letter dated 30 March 2001 from the President of the Security Council. That letter was issued as document A/55/871.

Secondly, in accordance with article 12, paragraph 2 (d), of the Statute of the International Criminal Tribunal for Rwanda, the Holy See and Switzerland, the two non-member States maintaining permanent observer missions at United Nations Headquarters, will participate in the election in the same manner as the States Members of the United Nations. On this occasion I am happy to welcome here the representatives of the Holy See and of Switzerland.

Finally, I should like to draw the attention of the Assembly to the documents relating to the election. The memorandum by the Secretary-General concerning the election of judges of the International Tribunal for Rwanda is contained in document A/55/872. The list of candidates is to be found in paragraph 9 of that document.

In that connection, I should like to inform the Assembly that the Permanent Representative of Zambia to the United Nations has informed the Secretary-General by a letter dated 18 April 2001 that Mr. Frederick Mwela Chomba has withdrawn his candidature for the International Criminal Tribunal for Rwanda. Accordingly, the name of Mr. Frederick Mwela Chomba has been deleted from the ballot paper.

The curricula vitae of the candidates are to be found in document A/55/873. In that connection, I bring to the Assembly's attention the provision of article 12, paragraph 1, of the Statute of the International Tribunal for Rwanda, which stipulates that judges of the Tribunal shall be persons of high moral character, impartiality and integrity who possess the qualifications required in their respective countries for appointment to the highest judicial offices. According to the same provision, due account shall be taken, in the overall composition of the Chambers of the Tribunal, of the experience of the judges in criminal law, international law, including international humanitarian law, and human rights law.

As representatives are aware, the election of judges will take place in accordance with the relevant provisions of article 12 of the Statute of the International Tribunal for Rwanda.

In addition, given the similar nature of the election of judges of the International Court of Justice and the election of judges of the International Tribunal for Rwanda, it was decided at the time of the elections of judges in 1995 and 1998 to follow similar election procedures in the General Assembly. In his memorandum, the Secretary-General suggests that these precedents be followed, and that rule 151 of the rules of procedure of the General Assembly be applied to the election of additional judges of the International Criminal Tribunal for Rwanda.

May I take it that the Assembly agrees to that suggestion?

It was so decided.

The President: In accordance with article 12, paragraph 2 (d), of the Statute of the International Tribunal for Rwanda, the candidates who receive an absolute majority of the votes of States Members of the United Nations and of the two non-member States maintaining permanent observer missions at United Nations Headquarters shall be declared elected.

The consistent practice of the United Nations has been to interpret the words "absolute majority" as meaning a majority of all electors, whether or not they vote or are allowed to vote. The electors, for this purpose, are all the Member States and the two non-member States, namely the Holy See and Switzerland. Accordingly, 96 votes constitute an absolute majority for the purpose the present election.

If, in the first ballot, either no candidate or only one candidate obtains an absolute majority, a second ballot will be held, and balloting will continue in the same meeting until two candidates have obtained an absolute majority. Following the practice in the election of judges of the International Court of Justice,

the Secretary-General suggests in his memorandum that any second and subsequent balloting shall be unrestricted.

It is further suggested that, following the practice in the election of the judges of the International Court of Justice, if more than two candidates obtain an absolute majority of votes in the first ballot, a second ballot will be held on all candidates and balloting will continue at the same meeting until two candidates, and no more, have obtained an absolute majority.

May I take it that the Assembly agrees to the procedures I have just outlined?

It was so decided.

Mr. Navarrete (Mexico) (*spoke in Spanish*): Once again, the delegation of Mexico will not participate in the election of the judges of the International Criminal Tribunal for Rwanda. Mexico is committed to the promotion and protection of human rights, as well as to full compliance with the norms of international humanitarian law. Therefore, it has always supported investigating crimes against humanity and bringing to justice and punishing those responsible, in on order to fight impunity and guarantee the rule of law.

Mexico considers that in establishing the Tribunal the Security Council exceeded its sphere of competence, since in the Charter of the United Nations there is no explicit provision authorizing it to establish jurisdictional mechanisms of this nature.

Mexico remains convinced that once the International Criminal Court becomes operational — a Court whose establishment process is indeed in accordance with the norms of international law — the creation of new special tribunals will be unnecessary.

These comments notwithstanding, Mexico will continue to pay on time its assessed contributions to the financing of the Tribunal, in strict compliance with the relevant decisions of the General Assembly.

The President: I give the floor to the Observer of the Holy See.

Archbishop Martino (Holy See): The Holy See has followed with attention the activities of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994.

The Holy See regards the Tribunal as an instrument of the international community to express its condemnation of violations of international humanitarian law. However, I would like to inform the Assembly that the Holy See, in consideration of its specific nature and its objectives, and in accordance with the recognized practice in similar cases, has decided to abstain from casting its vote on the individual candidates to the office of judge of the International Tribunal for Rwanda.

Finally, may I reiterate the confidence of the Holy See in the choices that will be made by the international community and extend its best wishes to the two judges who will soon be elected to serve the cause of justice, reconciliation and true peace in Rwanda, so that the atrocious tragedy of 1994 may never be repeated and so that, in the words of Pope John Paul II, that land of a thousand hills may never be soaked with the blood of its children.

The President: Before we begin the voting process, I should like to remind members that pursuant to rule 88 of the rules of procedure of the General Assembly, no representative shall interrupt the voting except on a point of order on the actual conduct of the voting.

We shall now begin the voting process. Ballot papers will now be distributed.

I request representatives to use only the ballot papers that have been distributed. Only those candidates whose names appear on the ballot papers are eligible for election. Representatives will indicate the two candidates for whom they wish to vote by placing crosses to the left of their names on the ballot papers. Ballot papers on which more than two names are marked will be considered invalid. Votes may be cast only for those whose names appear on the ballot papers.

At the invitation of the President, Mr. Parrales Sánchez (Nicaragua), Mr. Al-Hassan (Oman), Mr. Dragulescu (Romania) and Ms. Eklund (Sweden) acted as tellers.

A vote was taken by secret ballot.

The meeting was suspended at 10.30 a.m. and resumed at 11.20 a.m.

The President: The result of the voting is as follows:

Number of ballot papers:	151
Number of invalid ballots:	0
Number of valid ballots:	151
Abstentions:	1
Number of members voting:	150
Required absolute majority:	96
Number of votes obtained:	
Ms. Arlette Ramaroson (Madagascar)	90
Mr. Winston Churchill Matanzima Maqutu (Lesotho)	84
Mr. Mouinou Aminou (Benin)	83
Mr. Harris Michael Mtegha (Malawi)	38

Since no candidate has obtained an absolute majority, the Assembly will have to proceed to another ballot to fill the two vacancies.

In accordance with the decision taken earlier, that ballot shall be unrestricted.

We shall now begin the voting process. Ballot papers will now be distributed.

I request representatives to use only the ballot papers that have been distributed. Only those candidates whose names appear on the ballot papers are eligible for election. Representatives will indicate the two candidates for whom they wish to vote by placing crosses to the left of their names on the ballot papers. Ballot papers on which more than two names are marked will be considered invalid. Votes may be cast only for those whose names appear on the ballot papers.

At the invitation of the President, Mr. Parrales Sánchez (Nicaragua), Mr. Al-Hassan (Oman), Mr. Dragulescu (Romania) and Ms. Eklund (Sweden) acted as tellers.

A vote was taken by secret ballot.

The meeting was suspended at 11.30 a.m. and resumed at 12.15 p.m.

The President: The result of the voting is as follows:

Number of ballot papers:	156
Number of invalid ballots:	0
Number of valid ballots:	156
Abstentions:	1
Number of members voting:	155
Required absolute majority:	96
Number of votes obtained:	
Ms. Arlette Ramaroson (Madagascar)	105
Mr. Winston Churchill Matanzima Maqutu (Lesotho)	97
Mr. Mouinou Aminou (Benin)	77
Mr. Harris Michael Mtegha (Malawi)	28

Having obtained an absolute majority, the following candidates were elected members of the International Criminal Tribunal for Rwanda: Mr. Winston Churchill Matanzima Maqutu and Ms. Arlette Ramaroson.

The President: The two judges elected today shall serve terms of office until the expiry of the terms of office of the judges currently serving on the Tribunal, that is, until 24 May 2003. Their terms of office will commence as soon as possible.

I take this opportunity to extend to the judges the congratulations of the Assembly on their election and to thank the tellers for their assistance.

We have thus concluded this stage of our consideration of agenda item 185.

The meeting rose at 12.20 p.m.